

**NOTICE OF PROPOSED  
AMENDMENTS TO LOCAL RULES  
FOR THE OHIO CIRCUIT COURT**

Notice is hereby given to the bar and the public that the Ohio Circuit Court is proceeding to adopt amendments to Local Court Rules which, if approved, will be effective January 1, 2009.

Copies of the proposed amendments may be viewed or obtained in the office of the Clerk of Ohio County located at 413 Main St., Rising Sun, Indiana, 47040. Copies may also be viewed on the Indiana Judicial website at:

[www.in.gov/judiciary/rules/local/](http://www.in.gov/judiciary/rules/local/).

**COMMENTS**

Comments on the proposed amendments of the Local Court Rules will be received until thirty (30) days from the date of this notice and should be sent to the Ohio Circuit Court at 413 Main St., Rising Sun, Indiana, 47040.

After consideration of all comments received, the proposed amendments will be adopted, modified, or rejected and submitted to the Indiana Supreme Court for approval.

**EFFECTIVE DATE**

Adopted amendments to the Local Rules will not take effect until January 1, 2009, and until approved by the Indiana Supreme Court.

Dated this 22nd day of October, 2008.

\_\_\_\_\_  
/s/  
JAMES D. HUMPHREY, Judge  
Ohio Circuit Court

# **OHIO COUNTY LOCAL COURT RULES**

## **LR58-TR-1: RULES OF PROCEDURE**

Pleadings and procedure shall comply with the Indiana Rules of Civil and Criminal Procedure, per rules, the Statutes of Indiana, and the Local Rules of Court. Administration of the Court shall comply with Jury Rules, Administration Rules and Administration and Discipline Rules.

## **TR-2: TIME ZONE**

The prevailing business time of Rising Sun, Indiana, shall govern all matters scheduled before the Court.

## **TR-3: FILING OF MOTIONS**

- A. The filing of any motion with the Clerk of Court or with Court personnel shall be brought to the attention of the Judge by the moving party within five (5) days following the filing of the motion.
- B. Motions to dismiss, for judgment on the pleadings, and for summary judgment shall be accompanied by a brief or memorandum and proof of service upon opposing counsel or party. An adverse party shall have fifteen (15) days after service of movant's brief or memorandum to file an answer brief or memorandum.

## **TR-4: FILINGS**

Any item filed with the Clerk of Courts, or with Court staff, after 4:00 p.m. of each business day shall be considered filed the next business day unless the party requests to have the document filed stamped for the same day, or unless pursuant to Trial Rule 5(E) of the Indiana Rules of Trial Procedure.

## **TR-5: APPROPRIATE APPEARANCE FOR CONDUCTING COURT BUSINESS**

- A. The Court's offices and the Court Room are not casual environments. Accordingly, all persons appearing before the Court, either in official Court proceedings in the Court Room or in the Court related officers, shall present themselves in appropriate business attire to ensure the professional integrity of the Court and the judicial process. All clothing worn must be

appropriate, clean, and reflect the proper level of respect due the Court. Neat and clean personal grooming is also required. Professional business attire is required for counsel in all courtroom proceedings.

- B. It is expected that all persons present themselves to the Court in compliance with this rule. Failure to comply with this rule may result in the continuance of the proceeding or in the non-complying person being directed to leave the premises and return once they have complied.

#### **TR-6: DOCKETING OF PLEADINGS**

It shall be the responsibility of all parties or their attorneys filing documents with the Clerk in matters pending before the Court to first have those documents placed on the docket in the Judge's office.

#### **TR-7: PEOPLE PERMITTED AT COUNSEL TABLE**

No persons, other than attorneys admitted to the bar of this state or pro hac vice, shall be permitted beyond the gate dividing the public seating from the Court area (known as the "bar") in the Court Room unless the Court finds that there are specific circumstances involved which would warrant the presence of an assistant.

#### **TR-8: COURT'S INTERNAL MAIL SYSTEM**

The Court shall keep files available through the day with the names of the respective attorneys who are members of the Dearborn-Ohio County Bar Association on them. All notices, such as pink sheets showing the dates of hearings and trials, Court documents, such as orders and communications, will be placed in these files and shall constitute service and notice of the same to the respective attorneys. Service by one attorney upon another cannot be made by placing of the documents, pleadings or notices in the Court's file. They will not be recognized as service by the Court when done in this fashion.

#### **TR-9: CONTINUANCES**

Any motion for continuance filed within two (2) weeks of the trial, hearing or other court matter will be denied unless personal appearance is made by both counsel in court, explaining the necessity for the continuance. In extreme emergencies, the Court may grant exceptions to this rule.

#### **TR-10: SIGNATURE STAMPS FOR JUDGES**

Upon authorization of the presiding Judge or Magistrate, the Court staff of the Ohio Circuit Court are hereby authorized to use a signature stamp bearing a facsimile of the presiding Judge's or Magistrate's signature in the following instances:

1. Notice of hearing dates (pink sheets);
2. Certifications under the Acts of Congress;
3. Orders to appear (hearing notifications prepared by attorneys);
4. Upon direct verbal authorization of the Judge or Magistrate.

Said stamp shall have all the force and effect of the Judge's or Magistrate's personal signature and shall be in the form as follows:

\_\_\_\_\_/s/\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_/s/\_\_\_\_\_  
\_\_\_\_\_

Said persons may use the Judge's or Magistrate's signature stamp in other instances upon direction of the Judge or Magistrate.

**TR-11: ESTABLISHING A UNIFORM METHOD FOR PARTIES TO SECURE AN EX-PARTE, PRE-JUDGMENT ORDER OF POSSESSION OF PERSONAL OR REAL PROPERTY**

- A. In all cases in which a party is seeking an ex-parte, pre-judgment order of possession for either personal or real property, a cash or surety bond of One Thousand Dollars (\$1,000) shall be posted by the party seeking the ex-parte, pre-judgment order.
- B. Bond shall be released to the moving party or their surety upon their successful disposition of the claim. Bond shall be paid to the responding party should the moving party not be successful on their claim and the responding party is able to prove damages suffered as a result of the wrongful ex-parte, pre-judgment order.
- C. Requests to vary from this bond requirement shall be presented to the Court by verified petition with sufficient facts alleged as to the reason for seeking the variance.

**LR58-CR-1: BAIL**

- A. In all criminal cases, bail shall be set as determined by the Court.
- B. Unless otherwise ordered by the Court, all criminal defendants shall appear at all court hearings pertaining to the defendant's case. Such

appearances are a condition of the defendant's bail. No attorney has the authority to excuse a client from any court hearing or appearance. Defendants represented by an attorney are not required to appear at a pre-trial conference unless otherwise ordered by the Court.

**CR-2: NEGOTIATED CRIMINAL PLEA AS TO MISDEMEANORS AND CLASS D FELONIES**

Unless otherwise ordered by the Court, all negotiated criminal pleas scheduled for trial by jury shall be tendered to the Court in writing and signed by the defendant, defense counsel, and the prosecutor at least fourteen (14) days before jury trial date. Any guilty plea within fourteen (14) days of the jury trial date shall be before the Court without recommendation, except upon a showing of special circumstances approved by the Court.

**LR58-AR-1: Caseload Allocation**

~~Pursuant to Criminal Rules 2.2, 12 and 13 of the Indiana Rules of Procedure, the Ohio Circuit Court and the Ohio Superior Court hereby adopt the following rules:~~

- ~~a. All murder cases, all cases in which the most serious charge is a Class A felony, and all juvenile delinquency cases shall be filed in the Ohio Circuit Court.~~
- ~~b. All cases in which the most serious charge is a Class B, Class C or a Class D felony, all misdemeanor cases and all infraction cases shall be filed in the Ohio Superior Court.~~
- ~~c. Any cases which may be joined by statute or rule shall be treated as one case for the purposes of determining which Court shall be selected. The most severe charge filed shall determine selection.~~
- ~~d. The judges of the two Courts shall retain authority to reassign cases between the Courts whenever the workload of each court or convenience in handling the case make such a reassignment judicially desirable.~~
- ~~e. Whenever a motion for change of venue from the judge has been granted pursuant to Criminal Rule 12(B), the presiding judge disqualifies himself or it becomes necessary to assign another judge in any criminal or juvenile delinquency case in the Ohio Circuit Court, the Clerk shall reassign said cases to the following judges in the following consecutive order:~~

1. ~~Hon. John D. Mitchell, Ohio Switzerland Superior Court;~~
2. ~~Hon. G. Michael Witte, Dearborn Superior Court I;~~
3. ~~Hon. Sally Blankenship, Dearborn Superior Court II;~~
4. ~~Hon. Carl Taul, Ripley Circuit Court; and~~
5. ~~Hon. Ted R. Todd, Jefferson Switzerland Circuit Court.~~

~~In the event it becomes necessary to reassign a criminal or juvenile delinquency case in the Ohio Circuit Court, the judges shall be reassigned in consecutive order to the above named judges. Judges previously assigned the case are ineligible for reassignment.~~

- f. ~~Whenever a motion for change of venue from the judge has been granted pursuant to Criminal Rule 12(B), the presiding judge disqualifies himself or it becomes necessary to assign another judge in any criminal or juvenile delinquency case in the Ohio Superior Court, the Clerk shall reassign said cases to the following judges in the following consecutive order:~~

1. ~~Hon. James D. Humphrey, Dearborn Ohio Circuit Court;~~  
~~(excepting misdemeanors and infractions)~~
2. ~~Hon. G. Michael Witte, Dearborn Superior Court I;~~
3. ~~Hon. Sally Blankenship, Dearborn Superior Court II;~~
4. ~~Hon. Carl H. Taul, Ripley Circuit Court; and~~
5. ~~Hon. Ted R. Todd, Switzerland Circuit Court.~~

~~In the event it becomes necessary to reassign a criminal or juvenile delinquency case in the Ohio Superior Court, the judges shall be reassigned in consecutive order to the above named judges, except for misdemeanor and infraction cases, in which case Hon. James D. Humphrey shall be excluded. Judges previously assigned the case are ineligible for assignment.~~

- ~~g. In the event a case is dismissed and refiled, the judge last having jurisdiction in the dismissed case shall be the judge in the new case.~~
- ~~h. This rule shall be reviewable at any time by the judges of the Ohio Circuit Court and the Ohio Superior Court and shall be reviewed annually by the judges of said courts with approval of any changes in this rule to be made in accordance with Criminal Rule 2.2 before any changes become effective.~~

### **LR58-AR-1: CASELOAD ALLOCATION**

Effective January 1, 2009, all causes of action filed in Ohio County shall be filed under jurisdiction of the Ohio Circuit Court.

### **AR-2: TRANSCRIPTS AND COURT REPORTING**

In accordance with the requirements of Administrative Rule 15 of the Indiana Supreme Court, the following rule is hereby established effective June 1, 1998.

The Court adopts Model Option One under Section C regarding fees which will be charged for the following transcripts:

1. County indigent transcripts:
  - a. Three Dollars (\$3.00) per page;  
One Dollar and Seventy-five Cents (\$1.75) per page for copy.
  - b. A claim shall be submitted directly to the County Auditor for payment.
2. State indigent transcripts:
  - a. Three Dollars (\$3.00) per page;  
One Dollar and Seventy-five Cents (\$1.75) per page for a copy.
  - b. A claim shall be submitted directly to the Public Defender's Office for payment.
3. Private transcripts:
  - a. Three Dollars (\$3.00) per page;  
One Dollar and Seventy-five Cents (\$1.75) per page for a copy.
  - b. In some instances, a retainer may be requested.

- c. A bill shall be submitted directly to the lawyer requesting the transcript; said transcript will not be released until payment in full is received.
- 4. Other transcripts:
  - a. In cases where a transcript is requested by a member of the public (not for trial or appeal purposes), the charge will be Three Dollars (\$3.00) per page; One Dollar and Seventy-five Cents (\$1.75) per page for a copy.
  - b. The request must be submitted in writing.
  - c. A retainer will always be requested in these instances for at least fifty percent (50%) of the estimated charge.
- 5. The Court Reporter shall be paid an annual salary for time spent working under the control, direction and direct supervision of the Court during any regular work hours, gap hours or overtime hours.
- 6. The Court Reporter shall report no later than March 31<sup>st</sup> of each year to the Indiana Supreme Court Division of State Court Administration, on forms prescribed by the Division, all transcript fees (either county indigent, state indigent or private) received by the Court Reporter.
- 7. The Court hereby orders that the Court Reporter may not use court equipment or the facilities for the purpose of taking private depositions. Any private recording or preparing of private depositions shall be conducted outside regular court hours. It is further ordered that the Court shall enter into a written agreement with the Court Reporter for gap and overtime hours on the basis of compensatory time off regarding work hours.

Said fees are subject to change upon due notice and amendment of this Court Rule.

### **AR-3: PAUPER COUNSEL FEE SCHEDULE**

The reasonable fee for legal services in Court appointed cases for which fees are charged to the county shall be determined on the basis of hours required to perform the services. Cases vary greatly in the time and labor required, depending upon complexity of evidence, legal issues and other matters. In those cases for which an hourly rate applies, the Court shall receive a bill which clearly states the service performed, the expenses incurred and the reason for the same no less frequently than quarterly. This rule shall not apply to attorneys under specific contract, agreement or employed by the Court.



**AR-4: FEE SCHEDULE FOR CRIMINAL CASES**

- A. All attorney time in Court or out of Court will be billed at Sixty Dollars (\$60) per hour, with supporting documentation as to time spent. Dead time will be billed where delay was not due to the Public Defender.
- B. Trial work before a jury trial will also be billed at the rate of Sixty Dollars (\$60) per hour or Five Hundred Dollars (\$500) per day, whichever is less.
- C. None of the above applies to death penalty cases.

**AR-5: FEE SCHEDULE FOR CIVIL, JUVENILE, CHINS, TERMINATION OF PARENTAL RIGHTS**

- A. Billing for all out-of-court work shall be at the rate of Sixty Dollars (\$60) per hour.
- B. Trial work will be billed at the rate of Sixty Dollars (\$60) per hour or a maximum of Five Hundred Dollars (\$500) for any full day in Court.

**AR-6: TRAVEL AND REIMBURSEMENT**

Use of an automobile for the client's business shall be compensated at the current rate of reimbursement approved by Ohio County. Costs and expenses incurred on the client's behalf shall be reimbursed where said costs were reasonably necessary to representation of the client. Charges for pre-authorization experts, accountants, investigators, medical doctors and similar items will be borne by the county. Reasonable expenses for lodging and meals when traveling on client's business are also reimbursable. Application shall be made in advance before the hiring of experts, etc., and before expenses for lodging and meals in excess of Fifty Dollars (\$50) are incurred. Meals shall be reimbursed at the state per diem rate.

**AR-7: COURT RULES FOR ASSIGNMENT OF CASES**

Assignment of cases between the Judge of the Ohio Circuit Court and the Ohio County Magistrate shall be at the discretion of the Judge of the Ohio Circuit Court.

**AR-8: ASSIGNMENT OF CERTAIN CONFLICT CASES**

- A. This rule shall apply to the re-assignment of case and the selection of a Senior Judge where there is an Order of Disqualification or Recusal in order to bring the case to a conclusion in the Dearborn-Ohio Circuit Court.
- B. As to cases filed on or before December 31, 1998, whenever the Judge of the Dearborn-Ohio Circuit Court has a conflict of interest in any case

which required him to recuse himself because of prior contact with the case as a Deputy Prosecuting Attorney, Prosecuting Attorney or private practitioner, the case shall be assigned to Senior Judge Anthony C. Meyer for all further proceedings. The Clerk, upon recusal by the Circuit Court Judge, shall enter an order transferring the case to Senior Judge Anthony C. Meyer with an appropriate RJO entry and notify Senior Judge Anthony C. Meyer. Senior Judge Anthony C. Meyer shall accept jurisdiction under the provisions of this rule unless disqualified under the Code of Judicial Ethics or excused from service by the Indiana Supreme Court. The re-assignment of such case shall be entered on the chronological case summary of the case and will not require an oath or special order accepting jurisdiction. Senior Judge Anthony C. Meyer shall retain jurisdiction of the case for all future proceedings unless a specific statute or rule provides to the contrary or the Senior Judge is unavailable by reason of death, sickness, absence or unwillingness to serve. If further re-assignment or selection of a successor Special Judge or Senior Judge is required, then it shall be in the same manner as set forth in Ohio Circuit Court Local Rule AR-8(B) for criminal cases or Court Rule AR-9 for civil cases as to cases filed on or before December 31, 1998.

C. Whenever a Motion for Change of Venue from the Judge has been granted pursuant to Criminal Rule 12(B), the presiding Judge disqualifies himself or it becomes necessary to assign another Judge in any criminal or juvenile delinquency case in the Ohio Circuit Court, except for situations arising under Trial Rule 79C of the Indiana Rules of Court, the Clerk shall reassign said cases to the Judge of the following courts in the following consecutive order:

1. Dearborn Superior Court 1
2. Dearborn Superior Court 2
3. Switzerland Circuit Court
4. Ripley Circuit Court
5. Ripley Superior Court
6. Franklin Circuit Court

In the event it becomes necessary to reassign a criminal or juvenile delinquency case in the Ohio Circuit Court, the judges shall be reassigned in consecutive order to the Judges of the above named courts. Judges previously assigned the case are ineligible for reassignment.

## **~~LR58-TR79-2: Special Judges~~**

~~In the event it becomes necessary to appoint a special judge pursuant to Trial Rule 79(H) of the Indiana Rules of Trial Procedure, a judge from the~~

~~following list of judges within Administrative District 12 shall be appointed:~~

~~\_\_\_\_\_ Hon. James D. Humphrey (Superior Court only);~~

~~\_\_\_\_\_ Hon. John D. Mitchell (Circuit Court only);~~

~~\_\_\_\_\_ Hon. G. Michael Witte;~~

~~\_\_\_\_\_ Hon. Sally Blankenship;~~

~~\_\_\_\_\_ Hon. Ted R. Todd~~

~~\_\_\_\_\_ Hon. Fred H. Hoying;~~

~~\_\_\_\_\_ Hon. Carl H. Taul; and~~

~~\_\_\_\_\_ Hon. James Morris.~~

~~Special Judges shall be appointed from this list on a rotating basis, except when such judge or judges are known to the court of appointment to be ineligible or disqualified under Trial Rule 79(H).~~

#### **AR-9: SPECIAL JUDGES**

A. Pursuant to Trial Rule 79(H), the following list of Judges shall be eligible for appointment as a Special Judge in civil cases:

1. Judge of the Jefferson Circuit Court
2. Judge of the Jefferson Superior Court
3. Judge of the Switzerland Circuit Court
4. Judge of the Ripley Circuit Court
5. Judge of the Ripley Superior Court
6. Judge of the Dearborn Superior Court 1
7. Judge of the Dearborn Superior Court 2

B. Such judges shall be appointed on a rotating basis, except when Judges are known to this Court to be ineligible or disqualified as Special Judge under Trial Rule 79(H). All judges named above are members of Indiana Supreme Court Administrative District 12.

C. Any judge appointed to serve as a permanent special judge under an existing

standing order of the Supreme Court shall continue to serve in that capacity until further instruction from the Supreme Court.

**AR-10:           DESTRUCTION OF EVIDENCE**

- A.     Evidence which has been retained by the Court Reporter as a result of trials in matters in which the time for appeal has expired will be retained for a period of one (1) year from the date of expiration of such time. Upon the expiration of one (1) year from the date of expiration of appeal time, such exhibits and evidence will be confiscated and/or destroyed unless counsel has requested a release of the same prior thereto. Such releases should be in writing and should describe the specific items of evidence requested to be released.
- B.     At any other time, the Court will give notice to counsel of its intent to confiscate and destroy evidence no longer required to be retained, and counsel shall have thirty (30) days in which to claim the same upon receipt of the same.
- C.     Comes now the Court pursuant to its inherent rule making authority and the proper administration of the Dearborn - Ohio Circuit Courts and makes the following local rule:
1.     RULES FOR EVIDENCE HANDLING, RETENTION AND DISPOSITION
- A.     In all cases, the Court shall proceed pursuant to these rules, unless the Court directs a longer retention period after motion by any party or on its own motion.
2.     RETENTION PERIOD FOR EVIDENCE INTRODUCED IN CIVIL CASES, INCLUDING ADOPTION, PATERNITY AND JUVENILE PROCEEDINGS
- A.     All models, diagrams, documents or material admitted in evidence or pertaining to the case placed in the custody of the Court Reporter as exhibits shall be taken away by the parties offering them into evidence, except as otherwise ordered by the Court, four (4) months after the case is decided unless an appeal is taken. If an appeal is taken, all such exhibits shall be retained by the Court Reporter for two (2) years from termination of the appeal, retrial or subsequent appeal and termination, whichever is later.
- B.     The Court Reporter shall retain the mechanical or electronic records or tapes, shorthand or stenographic notes as provided in

Administrative Rule 7.

3. RETENTION PERIODS FOR EVIDENCE INTRODUCED IN CRIMINAL, MISDEMEANOR, CLASS C AND CLASS D FELONIES AND ATTEMPTS

- A. All models, diagrams, documents or material admitted in evidence or pertaining to the case placed in the custody of the Court Reporter as exhibits shall be taken away by the parties offering them in evidence, except as otherwise ordered by the Court, three (3) years after the case is dismissed, the defendant found not guilty or the defendant is sentenced, unless an appeal is taken. If an appeal is taken, all such exhibits shall be retained by the Court Reporter for three (3) years from termination of the appeal, retrial or subsequent appeal and termination, whichever is later, unless an action challenging the conviction or sentence or post-conviction action is pending.
- B. The Court Reporter shall retain the mechanical or electronic records or tapes, shorthand or stenographic notes as provided in Administrative Rule 7.

4. RETENTION PERIODS FOR EVIDENCE INTRODUCED IN CRIMINAL CLASS A AND CLASS B FELONIES, MURDER AND ATTEMPTS

- A. All models, diagrams, documents or material admitted in evidence or pertaining to the case placed in the custody of the Court Reporter as exhibits shall be taken away by the parties offering them in evidence, except as otherwise ordered by the Court, twenty (20) years after the case is dismissed, the defendant found not guilty or the defendant is sentenced, unless an appeal is taken. If an appeal is taken, all such exhibits shall be retained by the Court Reporter for twenty (20) years from termination of the appeal, retrial or subsequent appeal and termination, whichever is later, unless an action challenging the conviction or sentence post-conviction action is pending.
- B. The Court Reporter shall retain the mechanical or electronic records or tapes, shorthand or stenographic notes as provided in Administrative Rule 7.
- C. Non-documentary and oversized exhibits shall not be sent to the Appellate level court, but shall remain in the custody of the trial court during the appeal. Such exhibits shall be briefly identified in

the transcript where they were admitted into evidence. Photographs of any exhibit may be included in the volume of documentary exhibits.

- D. Under no circumstances should drugs, currency or other dangerous or valuable items be included in appellate records.
- E. Notification and Disposition. In all cases, the Court shall provide actual notice, by mail, to all attorneys of record and to parties only if unrepresented by counsel, that the evidence will be destroyed at a date certain if not retrieved before that date. Counsel and the parties have the duty to keep the court informed of their current addresses and notice to the last current address shall be sufficient. Court Reporters should maintain a log of retained evidence and scheduled disposition date and evidence should be held in a secure area. At the time of removal, detailed receipts shall be given to the Court Reporter by the party receiving and removing the evidence and the receipt will be made part of the Court's file.
- F. In all cases, evidence which is not retaken under notice should be disposed of by the Sheriff on the Court's order. The Sheriff should be ordered to destroy evidence if its possession is illegal or if it has negligible value. Evidence of some value should be auctioned by the Sheriff with proceeds going to the county general fund.
- G. Biologically Contaminated Evidence. A party who offers biologically contaminated evidence must file a pre-trial notice with the trial court and serve all the parties so that the Court can consider the issue and rule appropriately before trial. A party can show contaminated evidence or pass photographs of it to the jury, but no such evidence, however contained, shall be handled or passed to jurors or sent to the jury room. This local rule shall be effective immediately.

**AR-11: JUVENILE DETENTION AND HOUSING COURT RULES**

- 1. No child (person under the age of eighteen (18) years) will be detained or incarcerated in an adult jail, municipal lock-up or adult facility, within or outside of the county, subject to the following exceptions:
  - A. a child subject to automatic waiver by statute as murder (I.C. 31-30-1-4);
  - B. a child who has been waived to adult court;

2. All children who do not fit within the above described exceptions shall be either detained or otherwise placed in detention in the Dearborn County Juvenile Center.

#### **~~LR58-JR-1: JURY SELECTION~~**

~~Jury selection for Ohio Circuit Court and Ohio Superior Court shall be conducted pursuant to the Indiana Jury Rules in effect January 1, 2003. Jury selection shall be administered as directed by the Courts for Ohio County by the Ohio Circuit Court Clerk, as assisted by members of the Court staff and such other jury administrators as appointed by the Courts.~~

#### **LR58-JR-1: JURY SELECTION**

Jury selection for Ohio Circuit Court shall be conducted pursuant to the Indiana Jury Rules. Jury selection shall be administered as directed by the Ohio Circuit Court, by the Ohio Circuit Court Clerk, as assisted by members of the Court staff and such other jury administrators as appointed by the Court.

#### **~~LR58-JR-2: DEFERRAL, DISQUALIFICATION, AND EXEMPTION~~**

- a. ~~Disqualification for jury service shall be determined as set forth in Indiana Jury Rule 5. Persons who have completed a term of jury service in the year preceding the date of the person's summons may claim exemption from jury service. The Court shall excuse a person from action as jurors set forth in Indiana Jury Rule 6 and I.C. 33-4-5-7(a).~~
- b. ~~Pursuant to Indiana Jury Rule 7, the Courts may defer jury service upon presentation of a statement by the juror under oath which constitutes a showing of undue hardship, extreme inconvenience or public necessity.~~
- c. ~~Pre trial deferral, disqualification or exemption by the Court may only be granted upon submission to the Courts of deferral, disqualification or exemption documentation sworn under oath or affirmed under penalties of perjury. Juror deferral, disqualification or exemption documentation shall be maintained by the Clerk for a period of two (2) years. The documentation shall be considered confidential, and shall not be disclosed except as otherwise directed by the Courts.~~

**LR58-JR-2: DEFERRAL, DISQUALIFICATION, AND EXEMPTION**

- A. Disqualification for jury service shall be determined as set forth in Indiana Jury Rule 5. Persons who have completed a term of jury service in the twenty-four (24) months preceding the date of the person's summons may claim exemption from jury service as set forth in Jury Rule 6. The Court shall excuse a person from action as jurors set forth in Indiana Jury Rule 6 and I.C. 33-28-5-18.
- B. Pursuant to Indiana Jury Rule 7, the Court may defer jury service upon presentation of a statement by the juror under oath which constitutes a showing of undue hardship, extreme inconvenience or public necessity.
- C. Pre-trial deferral, disqualification or exemption by the Court may only be granted upon submission to the Courts of deferral, disqualification or exemption documentation sworn under oath or affirmed under penalties of perjury. Juror deferral, disqualification or exemption documentation shall be maintained by the Clerk for a period of two (2) years. The documentation shall be considered confidential and shall not be disclosed except as otherwise directed by the Court.

**LR58-JR-3: JURY SAFETY AND PRIVACY**

- A. Pursuant to Indiana Jury Rule 10, personal information relating to jurors or prospective jurors not disclosed in open court shall be considered confidential, other than as permitted for use of parties and counsel.
- B. Petit jurors shall be available during three (3) month terms for Ohio County. Grand jurors shall be available during a term of three (3) months. The first twenty-five (25) jurors drawn will be prospective grand jurors in Ohio County. Term of service shall be governed by Jury Rule 9.

**LR58-PR-1: FEES AND COSTS OF ADMINISTRATION**

- A. Any and all court costs shall be paid in full at the time the estate or probation matter is completed.
- B. Any and all fees allowed personal representatives and attorneys in probate matters shall, so far as deemed proper by the Court, be allowed in conformance with the fee guideline then existing, approved and adopted by the Dearborn-Ohio Circuit Court. Any and all fees in excess of the guidelines shall be fixed only after a petition is filed and notice to all



interested persons.

**PR-2: ACCOUNTS**

- A. At the time of the filing of all accounts (including supplemental reports) in any probate matter, vouchers or receipts evidencing all credits claimed in said account shall be filed therewith unless the Court permits other evidence to be submitted in lieu thereof. No account shall be approved unless and until all vouchers are filed.
- B. Whenever an estate cannot be closed within one (1) year, an intermediate account shall be filed with the Court within thirty (30) days after the expiration of one (1) year from the date of the appointment of an administrator or executor and each succeeding year thereafter. Such accounting shall comply with the provisions of I.C. 29-1-16-4 and I.C. 29-1-16-6 and shall state facts showing why the estate cannot be closed.
- C. All guardianship accountings must contain a certification of an officer of all financial institutions in which guardianship assets are held, verifying the account balance or a current statement of the account.
- D. In all supervised estate and guardianship accountings, a notation shall be placed by each expenditure indicating the reason for the nature of the expenditure.

**PR-3: SANCTIONS**

In the event that no such intermediate accounting is filed, the Court will annually issue to the attorneys for such estates an order to file such accounting within thirty (30) days from the date of this order. In the event that no accounting is filed pursuant to the order, an Order to Show Cause will be issued to the executor and the attorney to show cause why they should not be removed for failure to comply with I.C. 29-1-16.2.

**PR-4: GUARDIANSHIPS**

In all guardianship matters, except consensual guardianships seeking to declare a disabled adult person incompetent, at a minimum, a physician's report signed by the doctor treating the alleged incompetent must be presented at the time the petition is filed or on the hearing date.

**PR-5: ENTRIES AND NOTICE OF ENTRIES**

- A. All petitions and papers in probate proceedings shall be prepared, as in the case of civil pleadings, with sufficient copies. Upon all Petitions for

Letters of Guardianship or of Administration or Testamentary, the attorney for the personal representative shall have noted thereon his or her name, address, phone number and State Bar Number, and all notices of court action in said proceeding shall be sent to said attorney, and the same shall constitute notice to the personal representative.

- B. Where any petition for an ex-parte order is presented, there shall be presented at the same time a prepared order book entry.

#### **PR-6: GUARDIANSHIP OF MINOR**

In every petition for the appointment of guardian over the person of a minor child, the following information shall be given:

- A. The child's address;
- B. Whether, to petitioner's knowledge, any other litigation is pending concerning the custody of the same child in this or any other state;
- C. Whether, to petitioner's knowledge, any person not a party to the guardianship proceeding has physical custody of the child or claims to have custody or visitation rights with respect to the child.

#### **PR-7: BONDS**

In every supervised estate and guardianship, the personal representative, before entering duties, shall file a bond not less than the value of the personal property to be administered, plus the probable value of annual rents and profits of all property of the estate, except as hereinafter provided:

- A. Where, under the terms of the will, the testator expresses an intention that the bond be waived, the Court will set a bond adequate to protect creditors, tax authorities and devisees;
- B. When the sole devisee and the personal representative is the spouse, no bond is required;
- C. No bond shall be required in any supervised estate or guardianship in which a financial institution, qualified by law to serve as such, is either the personal representative or one of several co-personal representatives or guardians.

#### **PR-8: UNSUPERVISED ADMINISTRATION**

No petition for administration without Court supervision will be granted unless

the consent requirement of I.C. 29-1-7.2-2(a)(4) is met along with all other requirements of I.C. 29-7.5-2(a).

**PR-9: SALE OF ASSETS**

- A. In all supervised estates and guardianships in which the real estate is to be sold (not distributed), a written professional appraisal setting forth the fair market value thereof must be filed with the court at the time of filing the petition for sale, unless such an appraisal was filed with the inventory.
- B. A copy of all deeds in estates or guardianships must be filed with reports of sale for the Court's records.

**PR-10: INVENTORY**

In all guardianship and supervised estates, an inventory must be filed with the Court within two (2) months after the appointment of the personal representative or guardian.

**PR-11: FEE GUIDELINES**

- A. Where the Court allows fees:
  - 1. Probate matters;
  - 2. Decedent's estate with administration.
- B. Fees for basic administration of decedent's estates shall usually be considered reasonable if computed at the rates set forth below. Basic administration shall include the following services:
  - 1. Attend lock box opening;
  - 2. Probate of will;
  - 3. Appointment of personal representative;
  - 4. Preparing of and filing inventory;
  - 5. Determining Indiana Inheritance Tax Return;
  - 6. Determining Indiana Inheritance tax;
  - 7. Transferring all property included in inventory;
  - 8. Preparing and filing of final report;
  - 9. Preparing and filing of final decree of distribution;
  - 10. Distribution of assets;
  - 11. Preparing and filing supplemental report;
  - 12. Obtaining discharge of personal representative.
- C. The basic fee as follows may be charged on the property inventoried in the estate:

Basic Fee.....\$500.00  
Plus 6% of assets upon to \$50,000.00  
5% of assets \$50,000.00 to \$100,000.00  
4% of all assets over \$100,000.00 thereafter.

- D. All other services performed by the attorney shall be deemed "EXTRAORDINARY SERVICES" and may be based upon the schedule set forth below or as the Court shall allow.

**PR-12: EXTRAORDINARY SERVICES**

- A. Preparing Indiana Inheritance Tax Schedule with assets not inventories, but included: additional charge on non-inventoried assets (includes transferring) add 1%. Estates requiring federal tax return - \$1,000.00 plus 1/2% of assets on federal estate tax return; for returns requiring "Special Use Valuation" - \$3,000.00 plus 1/2% of assets on return.
- B. Sale of Real Estate: \$500.00 for each separate sale consisting of Petition to Sell, Order, Waivers of Notices, Report of Sale, Order, Deed and supporting documents including attending closing, if required.
- C. Defending contested claims, civil procedures apply.
- D. Services of personal representatives shall be 1/2 of attorney's fee. This includes where personal representative is attorney or member of firm, plus such fee as extraordinary services shall be allowed upon petition to the Court.
- E. Income Tax Returns - normally done by accountant chosen by fiduciary. If performed by attorney, would be subject to additional fees.

**PR-13: DECEDENT'S ESTATE WITHOUT ADMINISTRATION**

- A. Probate Will.....\$225.00
- B. Attend Lock Box Opening.....\$150.00
- C. Transfer of Automobile or Joint Accounts  
(per transfer).....\$ 50.00
- D. Transfer of Stock, Bonds, or Similar Intangibles  
(per transfer).....\$150.00
- E. Collection of Insurance Proceeds  
(per claim).....\$100.00
- F. Indiana Inheritance Tax Schedule  
(plus 1% of assets on return).....\$250.00

<u>G.</u>	<u>Federal Estate Tax Return</u> <u>(plus 1/2% of assets on return).....</u>	<u>\$1,000.00</u>
<u>H.</u>	<u>Federal Estate Tax Returns</u> <u>(Special use valuation, plus 1/2% of assets on return).....</u>	<u>\$3,000.00</u>
<u>I.</u>	<u>Petition and Order of No Administration or Affidavit or</u> <u>Equivalent.....</u>	<u>\$250.00</u>
<u>J.</u>	<u>Affidavit to Transfer for Real Estate with Title</u> <u>Examination, Without Opinion, if necessary.....</u>	<u>\$150.00</u>

**PR-14: GUARDIANSHIP FEES**

<u>A.</u>	<u>Opening (uncontested).....</u>	<u>\$500.00</u>
<u>B.</u>	<u>Current Report.....</u>	<u>\$350.00</u>
<u>C.</u>	<u>Sale of Real Estate consisting of the following:</u>	
	<u>1. Petition to Sell</u>	
	<u>2. Order</u>	
	<u>3. Waivers or Notices</u>	
	<u>4. Report of Sale</u>	
	<u>5. Order</u>	
	<u>6. Deed</u>	
	<u>7. Supporting documents including attend closing,</u> <u>if required.....</u>	<u>\$500.00</u>
<u>D.</u>	<u>Final Report.....</u>	<u>\$400.00</u>

**PR-15: TRUST FEES**

<u>A.</u>	<u>Opening.....</u>	<u>\$500.00</u>
<u>B.</u>	<u>Current Report.....</u>	<u>\$350.00</u>
<u>C.</u>	<u>Sale of Real Estate consisting of the following:</u>	
	<u>1. Petition to Sell</u>	
	<u>2. Order</u>	
	<u>3. Waivers or notices</u>	
	<u>4. Report of Sale</u>	
	<u>5. Order</u>	
	<u>6. Deed</u>	
	<u>7. Support documents, including attending closing, if</u> <u>required.....</u>	<u>\$500.00</u>

**PR-16: INHERITANCE TAX ORDERS**

Schedules of All Property (Form IH-6, Inheritance Tax Division) when filed with the Clerk's Office, shall be accompanied by Form IH-9, a court order determining the amount of taxes.

**PR-17: GUARDIANSHIP BIENNIAL REPORTS**

A. Comes now the Court and issues the following rule on biennial reports of guardianships:

1. All guardianships in which property of the ward/conservatorship is handled, the guardian or conservator shall file a biennial report in accordance with I.C. 29-3-9-6-5, -6, 6.5, which must contain the following information:

- A. the beginning balance or inventory;
- B. income;
- C. expenses;
- D. recapitulation showing the current balance.

B. All such biennial accounts must be signed by the guardian under the penalties or perjury or notarized.

C. Under provisions of I.C. 29-3-9-6.5, a formal accounting need not be made; however, a recapitulation must be made by letter and signed by the guardian. The Court may make special orders in cases where special circumstances require.

**PR-18: MENTAL HEALTH COMMITMENTS**

All verbal and written Emergency Mental Health Detention Orders shall be prepared and submitted by the Community Mental Health Center. In the event that an emergency mental health detention and examination are needed, the family or significant others, the referring physician, or the police officer or any other person requesting emergency detention shall first notify the Community Mental Health Center before such an order will be issued by the Court.

**LR58-FL-1: PARENTING TIME GUIDELINES** will be as follows:

**This Rule is maintained as to orders issued prior to the effective date of the Indiana Supreme Court Child Parenting Guidelines effective March 31, 2001.**

A. Visitation is based upon consideration of what is most beneficial to the child(ren) and exists for the child(ren), and not for the parents.

B. In custody orders, the primary care, custody and control of the minor child(ren) of the parties is granted to the custodial parent, subject to reasonable visitation by the non-custodial parent at such times and places as may be mutually agreed upon by the parties. A visitation agreement made by both parents is preferred to a court imposed solution. If the parties do not agree, the following shall be considered the minimum visitation to which the non-custodial parent shall be entitled. In any order

where the Court uses the term "reasonable visitation," such term shall be interpreted in accordance with the following minimal visitation rights:

1. INFANT TO CHILDREN AGE 6 MONTHS: two (2) hours per week at the home of the custodial parent or a grandparent;
2. 6 MONTHS TO 2 YEARS: visitation will be one (1) day per week with the non-custodial parent from 9:00 a.m. to 6:00 p.m. There will be no overnight visitation;
3. 2 YEARS AND OVER: alternating weekends from Friday evening at 6:00 p.m. to Sunday evening at 6:00 p.m. Summer visitation shall take place during the child's school vacation for four (4) weeks which shall be divided into separate two (2) week segments. The child must be returned to the home of the custodial parents two (2) weeks before school starts; such extended visitation shall only take place upon thirty (30) days or more notice by the non-custodial parent to the custodial parent; extended precedence over the holidays and weekends; if the custodial parent should go on vacation during the summer and the non-custodial parent loses a weekend visitation, then the non-custodial parent shall have an additional weekend upon the return of the custodial parent.
4. Transportation will be addressed as follows:  
The non-custodial parent shall provide the transportation to and from the custodial parent's home provided the residence of the custodial parent and the non-custodial parent are within forty-five (45) miles of each other. In the event that the residences of the non-custodial parent and the custodial parent are more than forty-five (45) miles, the non-custodial parent shall be responsible for picking the child(ren) up at the time set out, and the custodial parent shall return the child(ren);
5. Long Distance Visitation will be addressed as follows:  
After age three (3) until age twelve (12), long distance will be granted if the child(ren) is accompanied by a responsible adult. Parents shall share equally in the costs of travel if the custodial parent moves the child(ren) more than forty-five (45) miles from his/her former residence. Visitation shall be for a period of eight (8) weeks during a period of time which will not interfere with the child(ren)'s school activities provided weekend visitation is not feasible.
6. The following holidays are recognized as holidays for the purpose of this rule, and shall be shared, with the non-custodial parent

alternatively, to-wit: Christmas Eve, Christmas Day, Thanksgiving, Easter, Memorial Day, New Year's Day, Labor Day, 4th of July, and the child's birthday for a child two (2) years and older, from 9:00 a.m. until 9:00 p.m. (other holidays falling on alternating weekends which will coincide with visitation rights set out). Holiday visitation shall take precedence over, and shall be in addition to, weekend visitations when such holidays fall on a date other than a weekend visitation. The fact that a birthday and a weekend visitation may fall on the same date does not entitle the non-custodial parent to any additional visitation time.

7. Related matter will be addressed as follows:

- A. Support shall abate by fifty percent (50%) during the extended summer visits and any extended visitation of seven (7) days or more;
- B. Neither visitation nor child support shall be withheld because of either parent's failure to comply with a court order;
- C. Each parent shall have the child(ren) ready for visitation and the child(ren)'s return to the custodial parent's home at the appropriate time. The custodial parent shall make arrangements to provide adequate clothing and other personal items for the visitation periods, including, but not limited to, a child restraint device used for transporting said child(ren);
- D. The non-custodial parent shall give the custodial parent three (3) days prior notice if he or she does not intend to exercise visitation unless an emergency situation exists, in which case he or she will give such notice as is possible under the circumstances;
- E. Each parent shall supply the other with his/her current address and telephone number. Each parent shall allow reasonable telephone and mail privileges with the child(ren), and deliver all mail to the child(ren) sent by the other parent;
- F. The custodial parent shall provide copies of all school and medical reports within ten (10) days of their receipt and shall immediately notify the other parent in the event of a medical emergency. The custodial parent shall inform the



non-custodial parent of school functions permitting parental participation within twenty-four (24) hours after receiving notice of such function.

## **FL-2: DISSOLUTION OF EDUCATION WORKSHOP**

All parties to dissolution cases with minor un-emancipated children who file for dissolution of marriage shall participate in a Dissolution Education Workshop for the purpose of encouraging agreements between the parties on child related matters and aiding the parents in post-separation parenting. No final decree of dissolution in such cases shall be granted, nor shall the case be set for final hearing until a notification of compliance has been received that the parties have attended such workshop and paid the program fees. An order to the parties shall be automatically issued by the Circuit Court upon the filing of a petition for dissolution of marriage where un-emancipated children are involved. These orders shall be enforceable by contempt proceedings. The Court may waive application of this rule upon good cause (i.e. that the parties have already reached an acceptable agreement).

## **FL-3: SERVICE OF PLEADING AFTER DISSOLUTION**

In all matters pertaining to dissolution of marriage commenced after the final decree has been placed on the Order Book, notice of hearings thereon must be served upon the other party and upon the attorney who appeared for the other party in the dissolution proceedings. The rule shall apply in all proceedings for contempt, modifications, proceedings supplemental and the like.

## **FL-4: PRELIMINARY ORDERS**

- A. All petitions for provisional orders which involve support money shall be accompanied by a child support guideline worksheet and the same shall be attached to the petition, and such worksheet shall be signed by the party submitting the same.
- B. All petitions for provisional orders for child custody and support money shall be accompanied by a proposed notice setting a date, within twenty-one (21) days, for a hearing on the same. The scheduling secretary of the Circuit Court shall attempt to set a date within five (5) days, if possible, from the date of the filing of the petition and the request for temporary orders. No emergency provisional orders shall be issued unless the proponent of the request has complied with the provisions of Indiana Rule of Trial Procedure 65(B).

## **FL-5: MANDATORY DISCOVERY IN ACTIONS FOR DISSOLUTION OF MARRIAGE**

- A. In all actions for dissolution of marriage filed after the date of the order, the parties shall comply with the following:
1. Within forty-five (45) days of the filing of a petition for dissolution of marriage, the parties shall exchange copies of federal income tax returns for the previous year, most recent pay stubs and all of the most current information available regarding pensions, 401k's and any other retirement plans.
  2. Within sixty (60) days of the date of filing of the petition, exchange verified financial declaration forms as set forth in Exhibit "A" to this Rule.
  3. Within ninety (90) days of the date of filing, conduct and verify to the Court that a settlement conference between the parties and counsel has been conducted and report to the Court any stipulations or agreements which have arisen from the settlement conference.
- B. Exchange of the above stated information constitutes mandatory discovery, and therefore Trial Rule 37 sanctions apply. Deadlines may be extended or shortened by the Court for good cause shown. No contested marriage dissolution action will be scheduled for final hearing unless counsel for either or both parties certify to the Court that the above required disclosure has been completed by both parties. The settlement conference process of this rule shall not apply in cases in which one or both of the parties are not represented by counsel.

**SO ORDERED AND EFFECTIVE this 22nd day of October, 2008.**

\_\_\_\_\_/s/\_\_\_\_\_  
HON. JAMES D. HUMPHREY  
Judge, Ohio Circuit Court